

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

JOHN MIKSCH,)	
)	
Petitioner,)	
)	
v.)	Case No. 3:17CV906-PPS/MGG
)	
WARDEN,)	
)	
Respondent.)	

OPINION AND ORDER

John Miksch, a prisoner without a lawyer, filed a habeas corpus petition challenging his prison disciplinary hearing in MCF 17-2-784 in which a Disciplinary Hearing Officer (DHO) at the Miami Correctional Facility found him guilty of Use and/or Possession of a Cellular Telephone in violation of A-121 on March 8, 2017. ECF 1 at 1. As a result, Miksch was sanctioned with the loss of 60 days earned credit time and demoted from Credit Class 1 to Credit Class 2. *Id.*

After Miksch filed his petition, the finding of guilt and sanctions were vacated. ECF 6-5. The Warden has filed a motion to dismiss because this case is now moot. ECF 6. Miksch did not file a response and the time for doing so has passed. *See* N.D. Ind. L. Cr. R. 47-2. Regardless, the court cannot overturn the disciplinary proceeding and restore his time because the Indiana Department of Correction has already vacated the proceeding and restored his time. That is to say, Miksch has already won and there is no case left for this court to decide. As a result, this case must be dismissed. *See Hadley v. Holmes*, 341 F.3d 661, 664 (7th Cir. 2003) (prisoner can challenge prison disciplinary

determination in habeas proceeding only when it resulted in a sanction that lengthened the duration of his confinement).

ACCORDINGLY:

The motion to dismiss the petition as moot (ECF 6) is GRANTED and the case is DISMISSED. The clerk is DIRECTED to close this case.

SO ORDERED on May 15, 2018.

/s/ Philip P. Simon
JUDGE
UNITED STATES DISTRICT COURT